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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/736,653	12/16/2003	Jefferson B. Burch	10030565-1	5350

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AGILENT TECHNOLOGIES, INC.  
Legal Department, DL429  
Intellectual Property Administration  
P.O. Box 7599  
Loveland, CO 80537-0599

EXAMINER
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VU, MICHAEL T

ART UNIT	PAPER NUMBER
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2617

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/25/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

<b>Office Action Summary</b>	<b>Application No.</b> 10/736,653	<b>Applicant(s)</b> BURCH ET AL.	
	<b>Examiner</b> Michael Vu	<b>Art Unit</b> 2617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

#### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

#### Status

- 1) ☒ Responsive to communication(s) filed on 11/21/2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

#### Disposition of Claims

- 4) ☒ Claim(s) 1-34 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-4, 7-14, 17-25 and 28-34 is/are rejected.
- 7) ☒ Claim(s) 5-6, 15-16, 26-27 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

#### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

#### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

#### Attachment(s)

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)            | 4) <input type="checkbox"/> Interview Summary (PTO-413)           |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)   | Paper No(s)/Mail Date. _____                                      |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date _____  | 6) <input type="checkbox"/> Other: _____                          |

## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-4, 7-12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Diebboll (US 5,886,643) in view of Impson (US 2003/0187571).

Regarding **claim 1**, Diebboll teaches a monitoring system comprising (Col. 1, line 8-25): a central processing server (Col. 2, line 1-18, Monitor traffic over a network or processing data), wherein said central processing server performs **one** or more of: issues measurement requests for measuring conditions of a monitored area (Figure 1, Col. 3, line 54 through Col. 6, line 19); and processes data received in response to said measurement requests (Col. 2, line 1-60); a plurality of intermediate monitor sites (intermediate/probes monitoring data such as computer, server, hub, router, switch etc. Col. 2, line 1-60, see Figure 1) communicably connected to said central processing server for relaying said measurement requests (*Fig. 1*, Col. 3, line 54 through Col. 6, line 19), *and* a plurality of smart probes in communication with said plurality of intermediate monitor sites for measuring said data in response to said measurement request (Col. 2, line 1-60),

**But Diebboll does not clearly teach on** wherein each one of said plurality of smart probes determines a set of conditions for said each one of said plurality of smart probes prior to said measuring.

However, Impson teaches a method and system for mobile platform real-time collection, transmission, including the Intelligent Transportation System (ITS) implementation of the processes vehicle data and status based on location before feeding it to the current ITS implementation processing algorithms that process real-time data collected from known locations, and measured and/or determined where the mobile ITS data were collected (See paragraphs 0011-0015, 0034 and Claims 2 and 13 read on).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Diebboll, such that wherein each one of said plurality of smart probes determines a set of conditions for said each one of said plurality of smart probes prior to said measuring, for enhancing the communications capability between the vehicle and the Intelligent Transportation System or Monitor Site.

Regarding **claim 2**, the combination of Diebboll/Impson teach the monitoring system of claim 1 wherein said set of conditions comprises **one** or more of: availability of said each one to take said measurement request; capability of said each one for taking said measurement request; and a configuration of said each one needed to take said measurement request [0010-0020] of Impson.

Regarding **claim 3**, the combination of Diebboll/Impson teach the monitoring system of claim 1 wherein said central processing server further issues task requests

for influencing a condition of said monitored area and wherein said plurality of smart probes perform tasks in response to said task request relayed from said plurality of intermediate monitor sites [0010-0020] of Impson.

Regarding **claim 4**, the combination of Diebboll/Impson teach the monitoring system of claim 3 wherein said set of conditions comprises **one** or more of: availability of said each one to perform said task request; capability of said each one for performing said task request; and a configuration of said each one needed to perform said task request [0032-0038] of Impson.

Regarding **claim 7**, the combination of Diebboll/Impson teach the monitoring system of claim 1 further comprising: a transceiver disposed within said plurality of smart probes, wherein said transceiver enables communication between said plurality of smart probes (Col. 2, line 1-60) of Diebboll.

Regarding **claim 8**, the combination of Diebboll/Impson teach the monitoring system of claim 7 wherein said plurality of smart probes exchange **one** or more of: select ones of said set of conditions; and a participation state of said plurality of smart probes [0010-0020] of Impson.

Regarding **claim 9**, the combination of Diebboll/Impson teach the monitoring system of claim 1 further comprising: a management computer disposed within said plurality of intermediate monitor sites (Col. 1, line 1-60) of Diebboll.

Regarding **claim 10**, the combination of Diebboll/Impson teach the monitoring system of claim 9 wherein said management computer performs **one** or more of: transmitting measurement requests to select ones of said plurality of smart probes

Art Unit: 2617

responsive to **one** or more of: a capability of said select ones; and an availability of said select ones; receiving said data from said plurality of smart probes; and partially processing said data prior to communicating said partially processed data to said central processing server [0010-0020] of Impson.

Regarding **claim 11**, the combination of Diebboll/Impson teach the monitoring system of claim 1 wherein said plurality of smart probes are wireless [0041] of Impson.

Regarding **claim 12**, the combination of Diebboll/Impson teach the monitoring system of claim 11 wherein said plurality of wireless smart probes are each located on a mobile platform [0041] of Diebboll.

### ***Claim Rejections - 35 USC § 102***

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 13-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Boyd (US 2002/0116491).

Regarding **claims 13 and 24**, Boyd teaches a method for monitoring a measurement system (Fig. 1) comprising: issuing an experiment from a central server

Art Unit: 2617

to a plurality of intermediate monitoring stations (Fig. 1, Central Server #10s, Client Computer #12s, Probed Sites #14s, [0015, 0028], Experiment=Testing); transmitting said experiment to a plurality of smart probes (Fig.1); determining at said plurality of smart probes a set of tasks for completing said experiment (Test/Result [0015, 0022, 0029]); performing said set of tasks (Abstract); and transmitting data resulting from said performing step to said central server (Fig. 1, [0028-0035, 0052-0066]).

Regarding **claims 14 and 25**, Boyd teaches the method of claim 13 further comprising: determining at said plurality of smart probes an availability to perform said set of tasks; and determining at said plurality of smart probes a capability of performing each of said set of tasks [0015-00147, 0033-0035].

Regarding **claims 17 and 28**, Boyd teaches the method of claim 13 wherein said experiment relates to conditions existing in select portions of said measurement system [0028-0041].

Regarding **claims 18 and 29**, Boyd teaches the method of claim 17 wherein said transmitting step comprises: ascertaining ones of said plurality of smart probes located within a predetermined distance from said select portions of said measurement system; and communicating said experiment to said ascertained ones of said plurality of smart probes (Fig. 1, [0015, 0022, 0029, 0052-0056]).

Regarding **claims 19 and 30**, Boyd teaches the method of claim 18 wherein said ascertaining is performed by said plurality of intermediate monitoring stations (Fig. 1, Client Computer #12).

Regarding **claims 20 and 31**, Boyd teaches the method of claim 13 further comprising: processing into said data, at said plurality of smart probes, measurements taken in said performing said set of tasks (Fig. 1, [0015, 0022, 0029, 0052-0056]).

Regarding **claims 21 and 32**, Boyd teaches the method of claim 13 further comprising: processing into said data, at said plurality of intermediate monitoring stations, information received from said plurality of smart probes (Fig. 1, [0015, 0022, 0029, 0052-0056]).

Regarding **claims 22 and 33**, Boyd teaches the method of claim 13 further comprising: exchanging information related to said experiment between said plurality of smart probes (Fig. 1, [0015, 0022, 0029, 0052-0056]).

Regarding **claims 23 and 34**, Boyd teaches the method of claim 13 further comprising: communicating between said plurality of smart probes to divide performance of selected tasks of said set of tasks between selected smart probes of said plurality (Fig. 1, [0052-0066]).



***Allowable Subject Matter***

5. Claims 5-6, 15-16, and 26-27 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

For **claims 5-6, 15-16, 26-27**, the prior art of this record does not disclose or teach wherein said plurality of smart probes: generates a random participation number for participating in **one** or more of said measurement request; compares said random participation number to a participation threshold; and determines participation in said measurement request according to said comparison.

***Response to Arguments***

6. Applicant's arguments with respect to claims 1-34 have been considered but are moot in view of the new ground(s) of rejection.

7. Applicant's Remarks/Arguments filed December 18, 2006, have been fully considered but they are not persuasive.

In response to applicant's Remarks/Arguments in claims 13 and 24 that reference Boyd does not teach "determining at said plurality of smart probes a set of tasks for completing said experiment" and "means for determining at said plurality of smart probes a set of actions for completing said experiment" on page 11, lines 20-23.

In response, the examiner has been carefully reviewed the Applicant's Remark. However, the examiner must give the broadest reasonable interpretation to all claims 13 and 24 presented that Boyd clearly disclosed the method and system of evaluating the performance of a device by measuring site performance through the use of probing computers and performed, and the results of the tests for a set of probes are including sends or receives the test/experiment/evaluate instructions then determine the performance of the probed location and reports the performance information to different types of connections [0028-0029, 0032-0035]. And furthermore, Boyd teaches the method of the probing software is configured to measure and record data related to the test once the test is completed and deliver the results of its measurement activities back to a central server [0033-0035, 0054-0055, 0070-0072, 0076].

Therefore, the argued limitations are the same as disclosed by the reference or the limitations are written broad such that they read on the cited art, rejections are maintained as repeated below:

### ***Conclusion***

8. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Vu whose telephone number is (571) 272-8131. The examiner can normally be reached on 8:00am - 6:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Feild can be reached on 571-272-4090. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.



Michael Vu  
Examiner



JOSEPH FIELD  
SUPERVISORY PATENT EXAMINER